

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6280

BILL NUMBER: SB 28

NOTE PREPARED: Jan 29, 2008

BILL AMENDED: Jan 28, 2008

SUBJECT: Fire Safe Cigarettes.

FIRST AUTHOR: Sen. Drozda

FIRST SPONSOR: Rep. C. Brown

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes reduced ignition propensity standards for cigarettes. It authorizes the State Fire Marshal (SFM), the Department of State Revenue (DOR), and the Alcohol and Tobacco Commission (ATC) to monitor and enforce the standards. It provides for certification fees and penalties. It establishes (1) the Reduced Ignition Propensity Standards for Cigarettes Fund; and (2) the Fire Prevention and Public Safety Fund.

Effective Date: (Amended) Upon passage.

Summary of NET State Impact: (Revised) The net impact would be a slight increase in revenue of approximately \$3,000 per year for the first three years.

Explanation of State Expenditures: (Revised) *Personnel Expenditures.* The Department of Homeland Security (DHS) would require a program manager and clerical assistant to process certification submissions that are made on the basis of certifications issued by other states that have substantially equivalent legal requirements relating to fire safe cigarettes. The DHS would not assume enforcement activities. The fiscal impact would equal an increase in state expenditures of around \$80,000 per year for DHS personnel expenditures.

The SFM may adjust the fee every three years to ensure that the fee defrays the actual costs of the processing, testing, enforcement, and oversight activities required.

Reduced Ignition Propensity Standards for Cigarettes Fund. The bill establishes this fund, which may be used to support processing, testing, enforcement, and oversight activities. The SFM administers the fund.

Expenses of administering the fund must be paid from money in the fund. Money in the fund at the end of the state fiscal year does not revert to the state General Fund.

Fire Prevention and Public Safety Fund. The bill establishes the nonreverting fund. The SFM must administer the fund. Money in the fund may be used to support fire safety and prevention programs. Expenses of administering the fund must be paid from money in the fund.

Rules. (Revised) The DHS, which provides administrative services for Fire and Building Safety Commission, should be able to adopt rules given its existing level of resources.

Explanation of State Revenues: (Revised) *Certification Fees.* For each cigarette listed in a certification, a manufacturer must pay a fee to the SFM of \$250. According to the National Fire Protection Association (NFPA), and based on other states that have enacted this legislation, there are approximately 1,000 cigarette brands that may be certified in Indiana. Therefore, it is estimated that the registration fee will increase state revenues by approximately \$250,000 every three years. Annualized revenue would equal about \$83,000. Since the fee may be annually adjusted by the SGM, fee revenue generated after FY 2010 will ultimately depend upon the amount of the fee in the years following FY 2010.

Reduced Ignition Propensity Standards for Cigarettes Fund. The bill establishes the nonreverting fund to support processing, testing, enforcement, and oversight activities. The SFM must administer the fund. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. The fund consists of certification fees as well as gifts and grants.

Fire Prevention and Public Safety Fund. The nonreverting fund, to be administered by the SFM, is established. Money in the fund may be used to support fire safety and prevention programs. Expenses of administering the fund must be paid from money in the fund. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. The fund consists of penalties recovered (from violations listed below); and grants, gifts, and donations.

Penalties. A manufacturer, a wholesale dealer, an agent, or another person or entity that knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of the provisions is subject to a civil penalty not to exceed \$100 for each pack of cigarettes sold. However, the penalty against a person or an entity may not exceed \$100,000 during any 30-day period.

A retail dealer who knowingly sells cigarettes in violation is subject to a civil penalty not to exceed \$100 for each pack of cigarettes sold. However, the penalty against a retail dealer may not exceed \$25,000 during any 30-day period.

Any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification is subject to a civil penalty of at least \$75,000. However, the penalty may not exceed \$250,000 for each false certification.

A person that violates any other provision is subject to a civil penalty for a first offense not to exceed \$1,000, and for a subsequent offense not to exceed \$5,000 for each violation. The amount of revenue that will be generated by the penalty provisions is indeterminable.

(Revised) *Recovering Damages Suffered by the State*. The SFM may file an action in a court for a violation, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation, including enforcement costs relating to the specific violation and attorney's fees. Each violation constitutes a separate civil violation for which the SFM may obtain relief. The amount of revenue that will be recovered is indeterminable.

Other Civil Penalties. Each manufacturer must maintain copies of the reports of all tests conducted on all cigarettes offered for sale for three years and make copies of these reports available to the SFM and the AG upon written request. Any manufacturer that fails to make copies of these reports available within 60 days after receiving a written request is subject to a civil penalty not to exceed \$10,000 for each day after the 60 days that the manufacturer does not make the copies available. Civil penalties are deposited in the state General Fund.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Reduction in Expenditures for Fewer Fires*. Cigarette-ignited fires are the leading cause of home fire deaths in the U.S., killing 700 to 900 people annually, according to NFPA. A reduction in home fires could reduce local expenditures associated with emergency response.

Also, see *Explanation of State Expenditures* above relative to law enforcement officers seizing cigarettes that have not been marked in the manner required.

A local governmental unit may not adopt an ordinance concerning any subject regulated by the provisions of the bill.

Explanation of Local Revenues: (Revised) *Court Fee Revenue*: The SFM may file an action in a court for a violation of the provisions of the bill, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation. If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: DOR, SFM, AG, LSA, Treasurer of State, ATC.

Local Agencies Affected: Courts, law enforcement agencies, and local governmental units that adopt ordinances.

Information Sources: DHS; http://www3.legis.state.ia.us/fiscalnotes/data/82_1646HVv0_FN.pdf;

<http://www.nfpa.org/newsReleaseDetails.asp?categoryid=488&itemId=32997&cookie%5Ftest=1;>
<http://www.legis.state.ak.us/PDF/25/F/SB0084-6-2-051207-REV-Y.PDF>

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